MARY JO LANZAFAME
ASSISTANT CITY ATTORNEY

MARY T. NUESCA
CHIEF DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

Jan I. Goldsmith
CITY ATTORNEY

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

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REPORT TO THE PUBLIC SAFETY AND
NEIGHBORHOOD SERVICES COMMITTEE

RECOMMENDATIONS FROM THE MEDICAL MARIJUANA TASK FORCE, REPORT NO. 10-060, REGULATIONS OUTSIDE LAND USE AND ZONING

INTRODUCTION

On October 6, 2009, the City Council formed the Medical Marijuana Task Force (MMTF). The MMTF was directed to provide guidelines for (1) patients and caregivers, (2) the structure and operation of collectives and cooperatives, and (3) police enforcement. The MMTF produced two reports: a November 12, 2009 Report to Council addressing land use and zoning issues—heard and modified by the Land Use and Housing Committee (LUH) on March 24, 2010; and an April 21, 2010 Report to Council regarding regulations that fall outside of land use and zoning—heard at the Public Safety and Neighborhood Services Committee (PSNS) on April 28, 2010. PSNS asked this Office to provide a report addressing the recommendations contained in the April 21 Report. We have provided general information below. When more precise direction from City Council is given with respect to what kind of regulations the City Council desires and what conduct will be addressed, this Office can provide any necessary advice.

BACKGROUND

In 1996, Proposition 215, the California Compassionate Use Act (CUA), was passed by the electorate. Proposition 215, codified at California Health and Safety Code section 11362.5, allows the use of marijuana for medical purposes when recommended by a physician and excludes from criminal prosecution the patient and the primary caregiver, as defined. In 2003, the State of California enacted Senate Bill 420, the Medical Marijuana Program Act (MMP), setting forth requirements for the issuance of voluntary identification (ID) cards; allowing the cultivation, possession, sale, or storage of marijuana; prohibiting the distribution of marijuana for profit; exempting from prosecution qualified patients and designated primary caregivers who associate to collectively or cooperatively cultivate marijuana for medical purposes; requiring the Attorney General to issue guidelines for the security and nondiversion of medical marijuana; and allowing cities to adopt and enforce laws consistent with the MMP. The MMP is codified at California Health and Safety Code sections 11362.7- 11362.83.[1] The Attorney General issued

[1] The distribution of, or possession with intent to distribute, marijuana remains a federal crime. 21 U.S.C. § 841. This Office has been asked on several occasions to reconcile the State of California's medical marijuana laws with

"Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" (AG Guidelines) in August 2008.

DISCUSSION

I. GENERAL PRINCIPLES

Generally, the City has broad discretion pursuant to its police powers to enact ordinances to protect the public health, safety, and welfare, so long as the ordinance does not conflict with state or federal law[2]. Cal. Const. art. 11, § 7, Cal. Gov't. Code § 37100. A conflict exists if the ordinance duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication. *Sherwin-Williams Co. v. City of Los Angeles*, 4 Cal. 4th, 893, 897 (1993). The California Uniform Controlled Substances Act (CSA), found at California Health and Safety Code section 11000, et. seq., occupies the field of defining drug crimes and specifying penalties for those crimes. *O'Connell v. City of Stockton*, 42 Cal. 4th 1061, 1071-72 (2007). The CUA and MMP are contained within the CSA. The MMP expressly allows local regulation consistent with the MMP. Cal. Health & Safety Code § 11362.83.

The AG Guidelines state that neither the CUA nor the MMP conflict with federal law because the state did not legalize marijuana.[3] Additionally, the voluntary identification card program contained in the MMP does not conflict with federal law, *County of San Diego v. San Diego NORML*, 165 Cal. App. 4th 798 (2008), nor does a court order ordering law enforcement to return marijuana upon the dismissal of criminal charges against a qualified patient. *City of Garden Grove v. Superior Court of Orange County (Kha)*, 157 Cal. App. 4th 355 (2007). However, there is ongoing litigation related to the relationship between local, state, and federal law.[4] *See Qualified Patients Ass'n, et. al. v. City of Anaheim*, Case No. G040077, currently pending before the Fourth District Court of Appeal, Division Three, wherein issues related to

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the federal prohibitions. 1999 City Att'y Report 8; 2002 City Att'y MOL 5; 2007 Op. City Att'y 5; 2009 City Att'y Report 18. As has been stated, the two cannot be reconciled.

[2] See fn. 1 for previous City Attorney reports discussing the conflict between the federal and state law.

[3] The courts have consistently described the CUA as a narrowly drafted statute – a narrow measure with narrow ends. *People v. Mentch*, 45 Cal. 4th 274, 286, n. 7 (2008); *People v. Urziceanu,* 132 Cal. App. 4th 747, 772-73 (2005).

[4] For example, in *City of Lake Forest v. Moes, et al,* Case. No. 30-2009-00298887, May 11, 2010, the trial court ruled that *Lake Forest* could not promulgate code or zoning regulations due to the conflict with federal law, and citing Cal. Gov't Code § 37100. *See also* Associated Press report "*OC Judge says pot shops in Lake Forrest must close*," Silicon Valley Mercury News, May 12, 2010, *available at* http://www.mercurynews.com/breaking-news/ci_15070889?nclick_check=1. A trial court ruling is binding only on the parties involved in the litigation. Eisenberg, Horvitz & Wiener, CAL. PRAC. GUIDE: CIVIL APPEALS & WRITS Vol. 1.1 § 1:14.1 (The Rutter Group 2009).

prohibiting dispensaries, preemption, discrimination, and nuisance law, *inter alia*, are expected to be ruled on by the court in July of this year.

There is little case law addressing the specifics of how a city can regulate non land use matters related to medical marijuana.[5] Two recent cases held that medical marijuana dispensaries not in compliance with local zoning ordinances were public nuisances. *City of Corona v. Naulls*, 166 Cal. App. 4th 618 (2008), and *City of Claremont v. Kruse*, 177 Cal. App. 4th 1153, 1157 (2009). In *Claremont*, the court specifically said that neither the CUA nor the MMP do not preempt a city's enactment or enforcement of land use, zoning or business license as they apply to medical marijuana dispensaries. *Id.* at 1176. The Court examined the history and case law surrounding the CUA and the MMP, noting that the nature of the right to use marijuana is in the form of a limited defense to criminal prosecution, not a constitutional right to obtain marijuana. *Id.* at 1171.

Both *Claremont* and *Corona* involved situations where the regulations at issue were land use regulations and where the local government was seeking closure of the dispensary. They did not involve a challenge to a non land use regulatory scheme. It is possible that a local government could be challenged for imposing regulations that conflict with the CUA and MMP. Conversely, local government could be challenged for enacting code or zoning regulations allowing the use, sale, or distribution of marijuana.[6] Cal. Gov't Code § 37100.

The City, by enacting regulations, cannot guarantee that those regulations will provide a "safe harbor" from criminal liability for violations of the CSA because the imposition of criminal liability and the affirmative defenses to those charges are matters of statewide concern. Arguably, the City can act for the general health, safety, and welfare of its citizens so long as it does not conflict with the CSA, CUA or MMP. Cal. Health & Safety Code §11362.83.

II. RECOMMENDATIONS

The MMTF generally recommends an ordinance that closely regulates collectives and cooperatives, however, there has been no specific structure proposed that will "closely regulate," collectives and cooperatives. Additionally, there has not been any determination made as to whether the regulations will apply to all collectives and cooperatives, or only to those that operate as a "storefront." Thus, this Report addresses several legal concepts. Once the Committee or City Council identifies specific actions it would like to take, this Office can refine and address those actions.

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[5] Land use regulations are being separately addressed by our Office pursuant to direction given to our Office by LUH at its March 24, 2010 meeting.

[6] See fn. 4.

1. Establishment of a Fee.

The MMTF recommends that the City adopt cost-recovery fees for medical marijuana cooperatives and collectives pursuant to the City of San Diego's process for determining and establishing cost-recovery fees.[7]

To the extent the City enacts some type of regulatory or administrative scheme enforced by the City, such costs are probably recoverable. *Collier v. City and County of San Francisco,* 151 Cal. App. 4th 1326 (2007). (Regulatory fees spent for the purpose of legitimate regulation are valid so long as they do not exceed the reasonably necessary expense of the regulatory effort). *See also* Independent Budget Analyst Report 10-15, dated February 16, 2010, discussing fees and describing specific concerns and noting modifications that may be needed in the San Diego Municipal Code (SDMC) should the City Council adopt cost recovery fees related to the regulation of medical marijuana dispensing facilities.

2. Definition of Non-Profit Operation.

The MMTF recommends that the City adopt the following standard to determine whether medical marijuana cooperatives and collectives are operating in a non-profit manner in compliance with State law:

> *No collective shall operate for profit. Cash and in-kind contributions, reimbursements and reasonable compensation provided by members towards the collective's actual expenses for the growth, cultivation and provision of medical marijuana shall be allowed in accordance with State Law. All such cash and in-kind amounts and items shall be fully documented. "Reasonable compensation" shall mean compensation for directors, managers and/or other employees commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar descriptions and duties. The payment of a bonus shall not be considered "reasonable compensation."*

The MMP allows patients and caregivers to associate collectively and cooperatively to cultivate marijuana for medical purposes. Cal. Health & Safety Code § 11362.775, but no individual or group may cultivate or distribute marijuana for profit. Cal. Health & Safety Code § 11362.765(a). Primary caregivers may receive compensation for actual expenses, including reasonable compensation for services provided: enabling a patient to use marijuana, out-of-pocket expenses incurred in providing those services, or both. Cal. Health & Safety

[7] The MMTF recommendations are represented by italics throughout this Report.

Code § 11362.765(c). "Cooperatives" must be formed as statutory entities pursuant to the Corporations or Food and Agriculture Code. The AG Guidelines state that a "collective" is not a statutory entity. The Guidelines further state that as a practical matter may have to organize as some form of business to carry out their activities. The Guidelines provide further suggested guidelines and practices.

The statements that a collective not operate for profit, and that there be documentation describing the operation, are consistent with the AG Guidelines. To the extent there are cash or in-kind contributions, reimbursements and reasonable compensation, and those activities are in accordance with state law, then that is also consistent with the AG Guidelines. To the extent such compensation merely is another way of describing a permissible reimbursement consistent with state law, it is likely allowable. To the extent that compensation can be judged by comparison to other non-profits and be in compliance with state law is simply unknown. The definition of "reasonable compensation" proposed is not found in state law or the AG Guidelines.[8]

3. Verification of Non-Profit Operation.

The MMTF recommends that on an annual basis each collective be given the opportunity to provide evidence of its operation in a non-profit manner to the City during the previous year. Upon request by the City, each collective shall file with the City Controller an audit of its operations of the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles.

The MMTF made the following recommendation in its Report To Council December 2009 (Zoning and Land Use): *The Task Force recommends that the City require dispensing collectives and cooperatives to submit, as part of their application for a conditional use permit, evidence that they are incorporated as statutory cooperatives or bona fide nonprofit corporations, or documentation outlining their plans for operating in a not-for-profit manner, as contemplated by the Attorney General's guidelines.*

At its March 24, 2010 meeting, the LUH Committee also recommended that proof of non-profit status be required for a Conditional Use Permit (CUP).

The submission of "non-profit" operational plans, subsequent reviews and audits are not appropriate for a CUP,[9] and, if desired by the Council, could be part of a separate regulatory scheme. Although this specific recommendation is not described in the AG Guidelines, it appears to be consistent with the goals of creating operations with sufficient structure to ensure

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[8] With respect to "reasonable compensation," state law specifically allows primary caregivers to receive reasonable compensation for certain services.

[9] Conditional use permits create a right that attach to the land, not to any individual permittee. *Anza Parking Corporation v. City of Burlingame*, 195 Cal. App. 3d 855 (1987); *Malibu Mountains Recreation, Inc. v. County of Los Angeles*, 67 Cal. App. 4th 359 (1999).

compliance with state law, and documenting the activities of the operation, as suggested in the AG Guidelines. However, the placement of such a function with the City Comptroller will require further review.

4. Documentation and Definition of Closed-System Operation.

The MMTF recommends that medical marijuana cooperative and collective applicants shall document closed system operations pursuant to the Attorney General's guidelines. As such, it is expected that all collective members are potentially growers and can grow for themselves as they are able or as they choose. Collective members are expected to bring the excess medical marijuana from their own personal grows to the collective where they may be compensated by cash or trade in-kind. Certain collective members choose that their sole support to the cooperative effort will be to contribute their time and expertise in growing medical marijuana for the collective. Growers are compensated for their time and expenses in growing for the collective when the harvest is brought to the dispensary. Other members may participate in the cooperative cultivation of the medical marijuana, however the growers are responsible and compensated by the transaction amount to be paid by other members of the collective as their contribution to the cultivation of the medicine. Members may offer labor at any point in the cultivation cycle as their skills and choices allow and as opportunity permits.

The AG Guidelines state that collectives and cooperatives should document each member's contribution of labor, resources or money. To the extent the MMTF proposal describes a system not specifically described in the AG Guidelines, it is unknown whether a court will find that this is a "collective" within the meaning of state law.

5. Background Checks for Dispensary Directors, Managers, and Other Employees.

The MMTF recommends that LiveScan fingerprinting be required of all potential directors/managers/staff of dispensaries. Those who have been convicted of violent felonies or convicted of crimes of moral turpitude within the past seven years shall be excluded from being directors, managers or staff of dispensaries.

Under California law, crimes of moral turpitude are defined as those that "necessarily involve an intent to defraud or intentional dishonesty for the purpose of personal gain." *In re Fahey*, 8 Cal. 3d 842, 849 (1973). Crimes of moral turpitude are also described as acts of baseness, vileness or depravity in the private and social duties owed by one person to another. *Henry H. v. Board of Pension Comrs.* 149 Cal. App. 3d 965, 975-76 (1983). Specific crimes that have been found to be crimes of moral turpitude include fraud (*People v. Cadogan*, 173 Cal. App. 4th 1502, (2009)), perjury (*People v. Chavez*, 84 Cal. App. 4th 25 (2000)), forgery (*In re Johnson*, 1 Cal. 4th 689 (1992)), grand theft, and embezzlement (*Chadwick v. State Bar*, 49 Cal. 3d 103 (1989)).

Background checks are currently authorized for police-regulated business permitees. *See* San Diego Municipal Code section 33.0305. Background checks are also done for state licensure for various occupations. The AG Guidelines do not address this issue; however, it is likely that this type of regulation would be upheld.

6. Prohibition of Employing Minors.

The MMTF recommends that dispensing collectives and cooperatives be prohibited from employing individuals under 18 years of age.

Neither the CUA nor the MMP set forth different regulations for those under 18 years of age as compared to those over 18 years of age. Arguably, those under the age of 18 have the same ability to collectively and cooperatively associate to cultivate marijuana as those over the age of 18. Cal. Health & Safety Code § 11362.775. The AG Guidelines do not address or suggest any distinction between those under 18 and those over the age of 18.

However, courts have repeatedly upheld laws that distinguish between minors and adults for the minor's health or safety under the doctrine of *parens patriae*. *See, e.g., In re Walter P.*, 170 Cal. App. 4th 95, 101 (2009); Cal. Educ. Code §48200 (subjecting minors to compulsory education between ages six and eighteen); *In re Nancy C.*, 28 Cal. App. 3d 747, 758 (1972) (upholding curfew ordinance). "Without question, the city has a substantial interest in public safety, and in the safety and well being of minors specifically." *Vo v. City of Garden Grove*, 115 Cal. App. 4th 425, 441 (2004). Because minors are vulnerable, immature, and subject to adult care and control, cities may pass laws that discriminate against minors and limit their liberty. *In re Walter P.*, 170 Cal. App. 4th at 101 (upholding curfew imposed against a minor who violated his probation). California Labor Code section 1294 prohibits minors from working in "any occupation dangerous to the life or limb, or injurious to the health or morals of the minor."

It is unclear what is meant by "employing" those under 18 years of age. A person under the age of 18 may wish to participate in the collective endeavor as a way to obtain medical marijuana as a patient or caregiver, and a limitation on such ability based on age could be problematic because no such distinction currently exists in the CUA, MMP, or guidelines. It may be more defensible to create age restrictions for persons who are in positions of management of the cooperative or collective. It is unknown how a court will evaluate such age restrictions related to collective and cooperative associations.

7. Restrictions on Dispensing Medical Marijuana to Qualified Patients Under 18 Years of Age.

The MMTF recommends that qualified patients 18 or older or parents/legal guardians of a minor who is a qualified patient may obtain medical cannabis for the patient. It is

acknowledged that medical marijuana may be dangerous in the hands of juveniles and the use must be appropriately supervised by a parent or legal guardian.

Neither the CUA nor the MMP require a parent or guardian's participation in the acquisition of medical marijuana for an otherwise qualified patient or caregiver who happens to be under the age of 18. The AG Guidelines do not address or suggest any such requirement.[10] Our comments on recommendation number 6 are applicable here.

8. Prohibition Against Physicians' Consultations at Dispensaries.

The MMTF recommends that dispensing medical marijuana collectives and cooperatives be prohibited from offering physicians' consultations and recommendations on dispensary premises.

This recommendation, if desired to be adopted by the Council, can be incorporated into a CUP process as a prohibited accessory use.

9. Restrictions on Medical Marijuana Transportation.

The MMTF recommends that medical marijuana may be transported only by patients, caregivers or a member of a collective.

This recommendation is consistent with state law, California Health and Safety Code sections 11362.765 and 11362.775, and the AG Guidelines. Any person transporting marijuana who is not a patient or caregiver would not be entitled to the protection of the CUA and MMP, and would be in violation of the CSA. The City cannot make criminal what is already illegal, but it could include such a requirement as part of a regulatory scheme or set of guidelines to be followed.

10. Packaging and Labeling.

The MMTF recommends that (a) all packing of medical marijuana be sealed in an airtight manner and (b) a label be affixed to the package containing the following information: Patient's name; Dispensing date; Name of product; Product ingredients; It must be used as recommended; It must be kept out of reach of children; Patients must not operate heavy machinery while under the influence of medical marijuana; It is prohibited to sell or transfer medical marijuana to non-patients; The product is intended for medical use only as stated under the California Health and Safety Code section 11362.5; Any use instructions and warning.

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[10] The City of Los Angeles does not allow any person under the age of 18 at a collective unless the person is a patient or has an ID card, and is accompanied by his or her doctor, parent or guardian. City of Los Angeles Ordinance No. 181069.

The packaging and labeling of substances that are ingested is generally regulated by the federal Food and Drug Administration, and also regulated in California by the Sherman Food, Drug and Cosmetic Law. Cal. Health & Safety Code §§ 109875-110040. However, there are no regulations addressing the packaging and labeling of medical marijuana. We are not aware of any way the City can determine the medical or scientific accuracy of the product specific contents of the packaging and labeling requirements proposed here. Some of the information, such as requiring patient name and date, does not require additional expertise and can likely be incorporated into a regulatory scheme. The City could incorporate general warnings based on existing statutes, such as the prohibition against driving while under the influence of a controlled substance, and references to the use being consistent with the CUA, MMP, and a doctor's recommendation. This type of recommendation is not addressed in the AG guidelines, the CUA, MMP or case law.

11. Patient Advisory for Edible Products and Concentrates.

The MMTF recommends that the warning on the use of edible products and concentrates contained in Attachment A be posted on a wall in the dispensary and that edible products and concentrates must be labeled with an appropriate warning label.

See comments for number 10.

12. Applicability of Patients' Bill of Rights to Medical Marijuana Patients.

The MMTF recommends that the City acknowledge that the Patients' Bill of Rights applies to medical marijuana patients.

California has a number of regulations that could be considered a "Patients' Bill of Rights." *See* e.g. California Health and Safety Code sections 1599-1599.4, relating to skilled nursing facilities, and sections 124960-124961, relating to patients suffering from severe chronic intractable pain. These regulations generally describe the relationship and duties of the patient and doctor. Assuming a more precise reference to a particular set of rights, the City's acknowledgement of such rights cannot create obligations that do not already exist under state and federal law, nor can the City otherwise regulate the practice of medicine.

If the City desires to express its support for some type of "patients' bill of rights" related to medical marijuana users, it is more appropriate to do so in a resolution rather than as part of an ordinance or regulatory scheme.

13. Revisions to Existing San Diego Municipal Code Provisions Relating to Medical Marijuana.

The MMTF recommends that the City of San Diego revise existing municipal code provisions relating to medical marijuana in accordance with Attachment B.

California Health and Safety Code section 11362.77 sets forth possession amounts which protect patients, caregivers, and those with state ID cards from arrest, and allows counties and cities to enact guidelines allowing greater limits. San Diego Municipal Code, Chapter 4, Article 2, Division 13, "San Diego Medical Cannabis Voluntary Verification Card Program," created a City identification card program for medical marijuana patients and caregivers. As part of that program, SDMC section 42.1308(a)-(e) sets forth possession limits for both processed marijuana as indoor plants, as well as requiring outdoor plants to be fully contained in a structure with the same limits as indoor plants. Persons with the identification cards were not subject to arrest for possessing amounts within the limits. SDMC section 42.1308(f) states that the San Diego Police Department may evaluate persons who possess amounts in excess of the limits on a case-by-case basis. San Diego's limits are higher than state law limits.

The City identification card program was never implemented, and is now preempted by state law because San Diego County is currently issuing ID cards.[11] 88 Op. Cal. Att'y Gen. 113 (2005). The SDMC amounts are used as guidelines by the San Diego Police Department. San Diego Police Department Procedure 3.28, 06/19/06.[12]

The California Supreme Court recently addressed the issue of possession limits in *People v. Kelly*, 47 Cal. 4th 1008 (2010). The Court said that under the CUA, patients need only have a doctor's recommendation to use marijuana, and that if arrested and prosecuted, the patient/defendant has an affirmative defense to the charges if the amount possessed is reasonably related to the patient's current medical needs. The CUA did not place a numeric cap on how much is sufficient for personal use. *Id.* at 1027-28. In *Kelly*, the defendant possessed more than the state law limit contained in California Health and Safety Code section 11362.77, and the prosecution argued that defendant had not proven that he had a doctor's recommendation for more. The Court said that insofar as California Health and Safety Code section 11362.77 burdens the defense set forth in the CUA, it unconstitutionally amended the CUA.[13] *Id.* at 1024, 1046. However, the Court did not sever that section; it held that insofar as there are other applications that do not burden a defense available under the CUA, those applications are enforceable. *Id.* at 1046-48.

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[11] Although not part of the MMTF recommendations, this may be an appropriate time for the City Council to consider repealing those sections of the SDMC Code that are preempted.

[12] Our understanding is that Procedure 3.28 is currently under review by the San Diego Police Department.

[13] The CUA, an initiative measure, cannot be "amended" by an act of the Legislature. Cal. Const. art. II, § 10.

The MMP states in California Health and Safety Code section 11362.71(e), that a police officer is prohibited *from arresting* either a primary caregiver or a qualified patient for possession, transportation, delivery, or cultivation of marijuana in an amount that is lawful under state law (up to 8 ounces and either 6 mature or 12 immature plants), if the person has a valid County-issued medical marijuana ID card. Under California Health and Safety Code section 11362.71(e), an officer can only make such an arrest of an official ID card holder if the officer has probable cause to believe that the ID card is false or falsified, the ID card has been obtained by means of fraud, or the person has violated the quantity limits or other provisions of the medical marijuana laws. *Id.* The court in *Kelly* expressly noted this rule and did not disturb it. *Id.* at 1016-17. The Court noted that the ID card program is voluntary, and so long as a defendant can present a defense based on his or her current medical needs, the use of limits to provide protection from arrest for cardholders is not unconstitutional. *Id.*

The MMTF, aware of the *Kelly* decision, appears to suggest that to the extent the MMP provides protection from arrest for ID cardholders, the City should set the limits at the amounts described in Attachment B to their report. As noted above, the *Kelly* case did not invalidate the possession limits to the extent they are used to provide protection from arrest for ID cardholders. The City can likely set limits at a higher amount than provided in the MMP, as such legislation is allowed pursuant to California Health and Safety Code section 11362.77(c).

The suggested language also extends protection to persons with a valid physician's recommendation. It is unknown whether a court would interpret such a regulation as a burden on a defense, even if it is intended to provide protection to patients and caregivers. There is no requirement under the CUA that a physician specify an amount when providing a recommendation, thus such a requirement could be construed as conflicting with the CUA , similar to the situation in *Kelly*.

CONCLUSION

There is little judicial guidance for the City in creating regulations that fall outside of the land use arena. The *Claremont* case does indicate localities have that authority, and there is express authorization in the California Health and Safety Code for regulations consistent with the MMP and CUA. The conflict between state and federal law continues to be litigated. The legal issues around "medical marijuana" are still unsettled, and thus ripe for litigation—from both the

perspective that local regulations restrict patients' and caregivers' rights under the CUA and MMP, and from the perspective that local regulations conflict with state and federal law prohibiting the use of controlled substances.

Respectfully submitted,

JAN I. GOLDSMITH, City Attorney

By _____
Mary T. Nuesca
Chief Deputy City Attorney

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